

REMARKS

Claims 1-6, 8-13, 15, and 16 are pending in the present application. Claims 2, 6, 9, 13 and 15 have been amended. Claims 7, 14 have been canceled. The basis for the above amendments is found throughout the specification, drawings and claims as originally filed.

REJECTION UNDER 35 U.S.C. § 103

Claims 1, 5, 6, 8, 12, 13 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakaya et al, of record, in view of Ohno, US Pat 5,848,062. Claims 2-4, 7, 9-11, 14 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakaya in view of Ohno and Flynn, of record. This rejection is respectfully traversed.

First, the applicant amends Claims 2 and 9 to incorporate limitations of Claims 7 and 14, respectively. Claim 15 is amended to delete an element because its base Claim 2 now includes this element. Accordingly, no new issues are raised in the present invention at this time.

As described above, Claims 2 and 9 are amended to incorporate limitations of Claims 7 and 14, respectively. Thus, as defined in every independent Claims 1, 2, 5, 8, 9, 12 and 16, the present invention has the same feature that the radio transmission speed is decreased or set as the remaining power of the built-in battery decreases.

As the examiner admits, Nakaya of record fails to disclose that the transmission speed may be set.

The Examiner states that Ohno discloses means for changing coding speed settings in a portable phone based on battery conditions (Column 3, lines 20-48). Applicant believes the Examiner has misinterpreted Ohno. Ohno does not monitor the condition of the battery. The temperature sensor 7 monitors the temperature within the box which contains the entire communication equipment (Column 3, line 67 to Column 4, line 2). Thus, Ohno does not have any indication of the condition of the battery itself, it only knows the condition of the inside of the box which contains the communication equipment. As detailed in column 5, lines 16-22, the temperature in the box is controlled in an idle state by varying the battery saving period. In column 5, lines 28-56, Ohno controls the transmission rate of the CODEC 2 in order to improve the reliability of the overall equipment. There is nothing in Ohno that discusses the condition of the battery, Ohno is only concerned with the environmental temperature within the box which contains the communication equipment.

Ohno discloses that the transmission rate is lowered when the temperature within the box is higher than the set temperature (Column 5, lines 42 – 48). Ohno changes the transmission rate based on the temperature within the box, not based on battery conditions i.e., the remaining power of the built-in battery. That is, Ohno does not disclose, teach or suggest that the radio transmission speed is decreased or set due to the remaining power of the built-in battery decreasing as defined in the present invention.

In addition, Ohno changes the transmission rate to avoid exceeding a maximum temperature tolerance of the communication equipment without the use of a fan (Column 5, line 19 – Column 6, line 9). In other words, Ohno changes the transmission

rate in order that the temperature within the box can be lowered to the set temperature. This purpose of Ohno is completely different from that of the present invention, which changes the radio transmission speed in order to have a longer communication period. That is, the purpose of the present invention is completely different from that of the disclosure of Ohno.

Furthermore, the purpose of Ohno is also completely different from that of Nakaya of record. There is no motivation to combine Ohno with Nakaya to modify Nakaya to change radio transmission speed. The change in radio transmission speed in Ohno is done to maintain the temperature within the box and has nothing to do with maintaining battery power to extend the communication period as in the present invention. In addition, Flynn of record does not disclose the feature of the present invention.

Therefore, the applicant believes that Claims 1-6, 8-13, 15 and 16 of the present invention is not obvious over the arts of record. Reconsideration of the rejection is respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the

Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

By:


Michael J. Schmidt, 34,007

Dated: September 1, 2004

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

MJS/pmg